

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 856

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO CRIMINAL LAW; CREATING A NEW CRIME OF GIVING BIRTH TO AN INFANT WHOSE BLOOD CONTAINS A CONTROLLED SUBSTANCE NOT LAWFULLY PRESCRIBED TO THE MOTHER; REQUIRING THAT BLOOD SAMPLES TAKEN FROM NEWBORNS BE PRESERVED FOR SIX MONTHS; REQUIRING SUBSTANCE ABUSE TREATMENT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted to read:

"NEW MATERIAL PRESENCE OF CONTROLLED SUBSTANCE IN NEWBORN.--

A. A woman who gives birth to an infant whose blood contains a controlled substance not lawfully prescribed to the mother pursuant to the Controlled Substances Act, or a metabolite of the controlled substance, is guilty of a fourth

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 degree felony.

2 B. A woman, having been previously convicted
3 pursuant to Subsection A of this section or an equivalent law
4 in another jurisdiction, who gives birth to an infant whose
5 blood contains a controlled substance not lawfully prescribed
6 to the mother pursuant to the Controlled Substances Act, or a
7 metabolite of the controlled substance, is guilty of a third
8 degree felony.

9 C. Upon conviction pursuant to this section, an
10 offender shall be required to participate in and complete a
11 substance abuse treatment program approved by the court.

12 D. If a sentence imposed pursuant to this section
13 is suspended or deferred in whole or in part, the period of
14 probation may extend up to five years for a violation pursuant
15 to Subsection A of this section and up to ten years for a
16 violation pursuant to Subsection B of this section."

17 Section 2. Section 24-1-6 NMSA 1978 (being Laws 1973,
18 Chapter 359, Section 6, as amended) is amended to read:

19 "24-1-6. TESTS REQUIRED FOR NEWBORN INFANTS.--

20 A. The department shall adopt screening tests for
21 the detection of congenital diseases that shall be given to
22 every newborn infant, except that, after being informed of the
23 reasons for the tests, the parents or guardians of the newborn
24 child may waive the requirements for the tests in writing. The
25 screening tests shall include at a minimum:

.175771.2

underscored material = new
[bracketed material] = delete

- 1 (1) 3-methylcrotonyl-CoA deficiency;
- 2 (2) 3-OH 3-CH3 glutaric aciduria;
- 3 (3) argininosuccinic acidemia;
- 4 (4) mitochondrial acetoacetyl-CoA thiolase
5 deficiency;
- 6 (5) biotinidase deficiency;
- 7 (6) carnitine uptake defect;
- 8 (7) citrullinemia;
- 9 (8) congenital adrenal hyperplasia;
- 10 (9) congenital hypothyroidism;
- 11 (10) cystic fibrosis;
- 12 (11) galactosemia;
- 13 (12) glutaric acidemia type I;
- 14 (13) Hb S/beta-thalassemia;
- 15 (14) hearing deficiency;
- 16 (15) homocystinuria;
- 17 (16) isovaleric acidemia;
- 18 (17) long-chain L-3-OH acyl-CoA dehydrogenase
19 deficiency;
- 20 (18) maple syrup urine disease;
- 21 (19) medium chain acyl-CoA dehydrogenase
22 deficiency;
- 23 (20) methylmalonic acidemia;
- 24 (21) multiple carboxylase deficiency;
- 25 (22) phenylketonuria;

.175771.2

underscored material = new
[bracketed material] = delete

- 1 (23) [~~propionic~~] propionic acidemia;
2 (24) sickle cell anemia;
3 (25) trifunctional protein deficiency;
4 (26) tyrosinemia type I; and
5 (27) very-long-chain acyl-CoA dehydrogenase
6 deficiency.

7 B. In determining which other congenital diseases
8 to screen for, the secretary shall consider the recommendations
9 of the New Mexico [~~pediatrics~~] pediatric society of the
10 American academy of pediatrics.

11 C. The department shall institute and carry on such
12 laboratory services or may contract with another agency or
13 entity to provide such services as are necessary to detect the
14 presence of congenital diseases.

15 D. The department shall, as necessary, carry on an
16 educational program among physicians, hospitals, public health
17 nurses and the public concerning congenital diseases.

18 E. The department shall require that all hospitals
19 or institutions having facilities for childbirth perform or
20 have performed screening tests for congenital diseases on all
21 newborn infants except if the parents or guardians of a child
22 object to the tests in writing.

23 F. The department shall require that a blood sample
24 taken from a newborn infant to perform the screening tests
25 required in this section be preserved for six months."

.175771.2

1 Section 3. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2009.

3 - 5 -
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete